

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOSEPH H. BADAMI, Chapter 7 Trustee,)	4:11CV3143
)	
Plaintiff,)	MEMORANDUM AND ORDER ON
)	ORDER REPORT AND
v.)	RECOMMENDATION AND OBJECTION
)	TO REPORT AND RECOMMENDATION
AINSWORTH FEED YARDS, LLC,)	
)	
Defendant.)	
)	

After entry of a judgment by the bankruptcy judge on a case to recover money by the plaintiff from the defendant, the bankruptcy judge vacated the judgment, *Badami v. Ainsworth Feed Yards, LLC, (In the Matter of: AFY, Inc.)*, No. BK10-40875-TLS, No. A10-4060-TLS (Bankr. D. Neb. 2010), (hereafter “the Bankruptcy Case”) ECF No. 23, and the order, ECF No. 22. The Order, Report and Recommendation, (the Bankruptcy Case ECF No. 29), recommended that this district court withdraw the reference to the adversary proceeding “to allow the parties to proceed and obtain a judgment from the appropriate court.”

The only objection to the Order, Report and Recommendation is by the plaintiff-trustee and his only objection is that “The Report and Recommendation should include a request for the District Court to enter a final judgment in the proceeding based upon the District Court’s considering the Bankruptcy Court’s Order . . . granting the Trustee’s motion for summary judgment. . . . Summary Judgment Order should be treated as proposed findings of fact and conclusions of law by the District Court,” filed in this case at ECF No. 4 on 8/26/2011. I shall follow the trustee’s objection by treating as proposed findings of fact and conclusions of law the Order Granting Motion for Summary Judgment, the Bankruptcy Case, ECF No. 22) and the Judgment (the Bankruptcy Case, ECF No. 23). In doing so I adopt the proposed findings of fact and conclusions of law and from them I find that the plaintiff has shown that there is no genuine dispute as to any material fact and that the plaintiff is entitled to judgment as a matter of law.

In his Order Report and Recommendation, the Bankruptcy Case, ECF. No.29, the bankruptcy judge has recommended that this court withdraw the reference of the adversary proceeding to allow the parties to proceed and obtain a judgment from the appropriate court. I shall follow that recommendation. Because the ruling on the motion for summary judgment and the judgment entered by the bankruptcy judge have been vacated, the motion for summary judgment is now before this district court and I have found that no genuine dispute to any material fact exists and the plaintiff is entitled to judgment, I shall sustain the motion for summary judgment and enter judgment, because this court is the appropriate court for entry of such judgment.

IT IS ORDERED that:

1. the reference of this adversarial proceeding for collection of \$4,515,901.00 listed as an account receivable from the defendant on the debtor's bankruptcy schedules, is withdrawn;
2. the motion for summary judgment, the Bankruptcy Case, ECF No. 18, is granted on behalf of the plaintiff, Joseph H. Badami, Chapter 7 Trustee;
3. the Objection to Report and Recommendation in this case, 4:11cv3143, ECF. No. 4, is sustained;
3. judgment shall be entered in a separate document.

Dated September 27, 2011.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge